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EXAMINER	
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ART UNIT	PAPER NUMBER
3663	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/581,706	KUSUNOKI, KIICHI	
	Examiner	Art Unit	
	Matthew Lichti	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/24/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to newly amended claims 1-25 have been considered but they are not persuasive.

2. In regards to the argument that adding the term “relative” to distance distinguishes the claims over the prior art, both Beninga et al. and Wang teach calculating a particular distance “relative” to the geometry of the vehicle to move the adjusting devices (middle of page 9 of applicant's response). The distance that the second adjustable components of Beninga et al. and Wang move is “on the basis of” the positions of the first components and therefor also “on the basis” of the change in position or distance moved.

3. In response to applicant's argument that the system of claim 1 does not require the position sensors of Beninga et al. and Wang, it is noted that claim 1 uses the open ended term comprising, does not recite that position sensors are not used, and does not distinguish a “movement-distance sensor" from a position sensor which outputs a distance which changes based on movement. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. In response to the argument that Beninga et al. and Wang fail to disclose a signal “commensurate with” the distance that the first motor moves as recited in claim 7 as amended, the sensors of Beninga et al. and Wang communicate position, therefor the

position signal changes when the position changes and the distance that the component moved would be reflected with the new position signal.

5. In response to the argument regarding the additional features of claim 3, Wang teaches determining the distance beta by multiplying the distance alpha by coefficients based on statistical dimensions of the body of the vehicle such as r_{RH} and r_{LH} (equations (3) and (4)) which are "statistical" because there is inherently some variation in the dimensions of the vehicle and bodies within the vehicle

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

8. Regarding claims 1, 3, 4, 7, 9, 10, 13, 15, 16, 19, 23, and 24, the phrase "relative distance" was not in the original disclosure. Claims 2, 5, 6, 8, 11, 12, 17, 18, 20-22, and 25 are also rejected for being dependent on the defective claims

9. Regarding claim 13, 9, 15, and 23, the coefficient "based on statistical body dimensions" is not in the original disclosure.

10. Regarding claim 7, a “signal **commensurate with** the distance that the first motor moves the first adjustable component” is not in the original disclosure. it is unclear if this is the same as the signal “indicating the distance that the first adjustable component moves” in the specification.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13. Regarding claims 1, 3, 4, 7, 9, 10, 13, 15, 16, 19, 23, and 24, the phrase "relative distance" renders the claims indefinite because it is unclear what the distance is relative to. Claims 2, 5, 6, 8, 11, 12, 17, 18, 20-22, and 25 are also rejected for being dependent on the defective claims.

14. Regarding claim 13, 9, 15, and 23, the phrase “coefficient based on statistical body dimensions” is indefinite because it is unclear what the body refers to (one of the adjustable components, passengers, part of the vehicle, etc), what type of dimensions are used (length, mass, etc), what makes a dimension statistical, and how the dimensions are used to obtain the coefficient.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims **1, 2, 7, 8, 13, 14, 19, 20, and 22** are rejected under 35 U.S.C. 102(b) as being anticipated by Beninga et al. (DE 19522897, using English machine translation).

17. Regarding claim 1, Beninga et al. disclose an automatic driving position adjustment system for use in a vehicle having at least first (fig. 1, adjustable seat 2) and second adjustable components (adjustable elements 12b – 14b, page 3, line 29), wherein the first component is adjustable by an operator between a first and second position (page 2, line 31), comprising:

(a) a movement-distance sensor that generates an output signal indicative of the distance that the first adjustable component moves when adjusted by an operator between its first and second positions (position sensor 17, page 2, lines 46-48);

(b) a controller (controller 15, page 2, lines 46-47) responsive to the output signal of the movement-distance sensor (17) and configured to compute a relative distance that the second adjustable component (steering wheel 12 and mirrors 13 & 14) is to move on the basis of the distance moved by the first adjustable component (page 3, lines 43-47); and

(c) a motor that is actuated by the controller (motor operated control drives 12a – 14a, page 3, lines 38-39) and is drivingly engaged to the second adjustable component

(12b-14b) to move the second component the relative distance as computed by the controller (page 3, lines 43-47).

18. Regarding claim 7, Beninga et al. disclose a vehicle, comprising:

(a) a first adjustable component (fig 1, adjustable seat 2; page 2, line 31);

(b) a first motor adapted to move the first adjustable component in response to an operator-actuated signal (servomotors on control drives 6a – 11a, page 2, lines 42-44);

(c) a movement-distance sensor (17) operatively coupled to the first motor and adapted to output a signal commensurate with the distance that the first motor moves the first adjustable component in response to the operator-actuated signal (page 2, lines 46-48),

(d) a second adjustable component (adjustable elements 12b – 14b, page 3, line 29);

(e) a controller (15) responsive to the output signal of the movement-distance sensor (17) and configured to compute a relative distance that the second adjustable component (12a-14a) is to move on the basis of the distance moved by the first adjustable component (page 3, lines 43-47);

(f) a second motor actuated by the controller (motor operated control drives 12a – 14a, page 3, lines 38-39) and drivingly engaged to the second adjustable component to move the second adjustable component the relative distance as computed by the controller (page 3, lines 43-47).

19. Regarding claim 13, Beninga et al. disclose an automatic driving position adjustment system for use in a vehicle having at least first (fig. 1, seat 2; page 2, line 31) and second adjustable components (12–14; page 3, line 29), wherein the first component relates to the attitude of the driver (adjustable back rest 9, page 2, line 36) and is movable by the driver during a series of adjustment cycles (any time the driver adjusts the seat is an adjustment cycle), comprising:

(a) movement-distance detecting means (position sensor 17) for detecting the distance that the first adjustable component has moved from its position during the previous adjustment cycle to its position in the current adjustment cycle (page 2, lines 46-49);

(b) control means (controller 15) for computing the relative distance that the second adjustable component (steering wheel or mirrors 12-14) is to move on the basis of the distance moved by the first adjustable component as detected by the movement distance detecting means (page 3, lines 43-47); and

(c) drive means (motor operated control drives 12a – 14a, page 3, lines 38-39) for moving the second adjustable component by the relative distance as computed by the control means (page 3, lines 43-47).

20. Regarding claims 2, 8, and 14, Beninga et al. disclose that the first adjustable component is a driver's seat (fig. 1, seat 2; page 2, line 31), and the second adjustable

component is selected from the group consisting of: a steering wheel (12), door mirror (13), and interior mirror (14; page 3, lines 38-42).

21. Regarding claim 19, Beninga et al. disclose a method for use in a vehicle to automatically adjust the position of a second adjustable component in response to the operator-actuated adjustment of a first adjustable component, comprising:

(a) detecting the distance of operator-actuated adjustment of the first adjustable component (page 2, lines 46-49);

(b) computing the relative distance of adjustment that the second adjustable component is to undergo on the basis of the detected amount of adjustment of the first adjustable component (page 3, lines 43-47); and

(c) moving the second adjustable component by the relative distance of adjustment (page 3, lines 43-47).

22. Regarding claim 20, Beninga et al. disclose that the first adjustable component is a driver's seat (seat 2; page 2, line 31), and the detected distance of adjustment is measured as distance traveled by the seat (page 2, lines 46-49).

23. Regarding claim 22, Beninga et al. disclose that the second adjustable component is selected from the group consisting of: a steering wheel (12), door mirror (13), and interior mirror (14; page 3, lines 38-42)

24. Claims **1, 3, 4, 6, 7, 9, 10, 12, 13, 15, 16, 18, 19, 21, 23 and 24** are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (U.S. Pub 2004/0109247).

25. Regarding claim 1, Wang discloses an automatic driving position adjustment system for use in a vehicle having at least first (fig. 1, left mirror 20) and second adjustable components (right mirror 22) wherein the first component is adjustable by an operator between a first and second position (par. 12), comprising:

(a) a movement-distance sensor (position sensor 48) that generates an output signal indicative of the distance that the first adjustable component (LH mirror 20) moves when adjusted by an operator between its first and second positions (par. 15);

(b) a controller (50) responsive to the output signal of the movement-distance sensor (48) and configured to compute a relative distance that the second adjustable component (RH mirror 22) is to move on the basis of the distance moved by the first adjustable component (par. 15); and

(c) a motor (24) that is actuated by the controller (50) and is drivingly engaged to the second adjustable component (RH mirror 22) to move the second component the relative distance as computed by the controller (par. 15).

26. Regarding claim 7, Wang discloses a vehicle, comprising:

(a) a first adjustable component (fig. 1, left mirror 20; col. 2, lines 26-31);

(b) a first motor (24) adapted to move the first adjustable component in response to an operator-actuated signal (par. 12);

(c) a movement-distance sensor (position sensor 48) operatively coupled to the first motor and adapted to output a signal commensurate with the distance that the first motor moves the first adjustable component in response to the operator-actuated signal (par. 15),

(d) a second adjustable component (RH mirror 22, par. 12);

(e) a controller (15) responsive to the output signal of the movement-distance sensor (17) and configured to compute a relative distance that the second adjustable component (RH mirror 22) is to move on the basis of the distance moved by the first adjustable component (par. 15);

(f) a second motor (24) actuated by the controller (50) and drivingly engaged to the second adjustable component (RH mirror 22) to move the second adjustable component the relative distance as computed by the controller (par. 15).

27. Regarding claim 3 and 9, Wang discloses that the controller (50) is further configured to compute the relative distance (RH mirror 22 angle beta) by multiplying a prescribed coefficient based on statistical body dimensions (equations 3 and 4, coefficients r_{RH} and r_{LH} are based on the body of the vehicle, which are “statistical” because there is inherently some variation in the dimensions of the vehicle and bodies within the vehicle) by the distance that the first adjustable component (LH mirror 20 angle alpha) has moved (par. 19).

28. Regarding claims 4 and 10, Wang discloses that the controller (50) is further adapted to actuate the motor (24) to move the second adjustable component (right hand mirror 22) when the vehicle is in a prescribed (LH/RH mode position) state (par. 13).

29. Regarding claim 6, Wang discloses that the first adjustable component (LH mirror 20) is a first mirror surface that moves through a range of angular positions when adjusted by an operator between the first and second positions and the second adjustable component (RH mirror 22) is a second mirror surface a that is adjustable through a range of angular positions (par. 17); wherein the movement-distance sensor (48) output is indicative of the change in the angular position of the first mirror surface (par. 18, measured LH mirror angle alpha).

30. Regarding claim 12, Wang discloses that the first adjustable component is a first mirror surface (LH mirror 20); wherein the first motor (24) rotates the first mirror through an angular distance (par. 17); and wherein the movement-distance sensor output is indicative of the angular distance (par. 18, measured LH mirror angle alpha).

31. Regarding claim 13, Wang discloses an automatic driving position adjustment system for use in a vehicle having at least first (LH mirror 20) and second (RH mirror 22) adjustable components (par. 12), wherein the first component relates to the attitude of the driver (the desired mirror angle relates to the attitude of the driver) and is movable

by the driver during a series of adjustment cycles (any time the driver adjusts the mirror is an adjustment cycle), comprising:

(a) movement-distance detecting means (position sensor 48) for detecting the distance that the first adjustable component (LH mirror 20) has moved from its position during the previous adjustment cycle to its position in the current adjustment cycle (par. 15);

(b) control means (controller 50) for computing the relative distance that the second adjustable component (RH mirror 22) is to move on the basis of the distance moved by the first adjustable component (LH mirror 20) as detected by the movement distance detecting means (par. 15); and

(c) drive means (motor 24) for moving the second adjustable component (RH mirror 22) by the relative distance as computed by the control means (par. 15).

32. Regarding claim 15, Wang discloses that the control means (controller 50) computes the relative distance (RH mirror 22 angle beta) by multiplying a prescribed coefficient based on statistical body dimensions (equations 3 and 4, coefficients r_{RH} and r_{LH} are based on the body of the vehicle, which are “statistical” because there is inherently some variation in the dimensions of the vehicle and bodies within the vehicle) by the distance moved by the first adjustable component (LH mirror 20 angle alpha) as detected by the movement distance detecting (position sensor 48) means (par. 19).

33. Regarding claim 16, Wang discloses that the control means (50) moves the second adjustable component (right hand mirror 22) when the vehicle is in an interlocked (LH/RH mode position) state (par. 13).

34. Regarding claim 18, Wang discloses that the first adjustable component is a first mirror surface (LH mirror 20) adjustable about an angle (par. 17) and the second adjustable component is a second mirror surface (RH mirror 22), wherein the movement-distance detecting means detects the angle that the first mirror is rotated (par. 18, measured LH mirror angle alpha).

35. Regarding claim 19, Wang discloses a method for use in a vehicle to automatically adjust the position of a second adjustable component (RH mirror 22) in response to the operator-actuated adjustment of a first (LH mirror 20) adjustable component, comprising:

(a) detecting the distance of operator-actuated adjustment of the first (LH mirror 20) adjustable component (par. 15);

(b) computing the relative distance of adjustment that the second adjustable component (RH mirror 22) is to undergo on the basis of the detected amount of adjustment of the first (LH mirror 20) adjustable component (par. 15); and

(c) moving the second adjustable component by the relative distance of adjustment (par. 15).

36. Regarding claim 21, Wang discloses that the first adjustable component is a mirror surface (LH mirror 20) that is adjustable by rotation (par. 17), and the detected distance of adjustment is measured as an angle through which the mirror is rotated (par. 18, measured LH mirror angle alpha).

37. Regarding claim 23, Wang discloses that the step of computing the relative distance of adjustment (RH mirror 22 angle beta) further comprises multiplying a prescribed coefficient based on statistical body dimensions (equations 3 and 4, coefficients r_{RH} and r_{LH} are based on the body of the vehicle, which are "statistical" because there is inherently some variation in the dimensions of the vehicle and bodies within the vehicle) by the detected distance of adjustment (LH mirror 20 angle alpha) of the first adjustable component (par. 19).

38. Regarding claim 24, Wang discloses that the step of moving the second adjustable component (right hand mirror 22) by the relative distance of adjustment takes place when the vehicle is in a prescribed (LH/RH mode position) state (par. 13).

Claim Rejections - 35 USC § 103

39. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

40. Claims **5, 11, 17, and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Pub 2004/0109247) in view of Barthel et al. (U.S. 5,081,586).

41. Regarding claims 5, 11, 17, and 25, Wang discloses the invention substantially as claimed including an interlocked (or prescribed) state, in which the second component moves automatically.

However, Wang does not disclose that the second component moves automatically when vehicle speed is zero, the position of the shift lever is in park, the position of the shift lever is in neutral, or the parking brake is on.

Barthel et al. disclose an automatic driving position adjustment system for use in a vehicle, in which the automatic adjustment occurs when the vehicle is in park (col. 21, lines 1-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the automatic driving position adjustment system with an interlock state of Wang to include the teachings of Barthel et al. so that components do not automatically adjust when the vehicle is moving. The modification is desirable because automatic adjustments could distract the driver or obstruct their vision and create a safety hazard.

Conclusion

42. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A human translation of German Patent DE 195 22 897 A1 is

attached (Claims 1, 2, 7, 8, 13, 14, 19, 20, and 22 were anticipated by the figures and machine translation).

43. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

/M. L./

Examiner, Art Unit 3663

/Jack W. Keith/

Supervisory Patent Examiner, Art Unit 3663